

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

Rebecca W.,

Claimant,

vs.

Inland Regional Center,

Service Agency.

OAH No. 2010100184

**DECISION**

Administrative Law Judge Vallera J. Johnson, State of California, Office of Administrative Hearings, heard this matter in San Bernardino, California on February 7, 2011.

Margie Thompson, Supervisor, Independent Living Systems, Inc., represented Claimant Rebecca W.

Jennifer Cummings, Program Manager, Fair Hearings & Legal Affairs, represented Inland Regional Center, the Service Agency.

The matter was submitted on February 7, 2011.

**ISSUE**

1. Whether a Notice of Action (including appeal rights) was properly given?
2. Whether Inland Regional Center should fund supported living services for Rebecca W.?

## FACTUAL FINDINGS

1. Rebecca W. (Claimant) is a 27 year-old woman, eligible to receive regional center services from the Inland Regional Center (Service Agency) on the basis of mild mental retardation and cerebral palsy. In addition, she has a diagnosis of scoliosis.

2. Claimant resides with her parents, both of whom have disabilities. Her mother is a Service Agency consumer.

3. There is evidence regarding Claimant's ability to provide for her activities of daily living and her independent living skills. She feeds, dress and toilet herself independently. Occasionally she needs reminders to clean completely after toileting. She requires assistance with bathing, as she needs assistance with shaving under her arms and her legs. She requires reminders to use deodorant and to wash and rinse her hair more thoroughly and to brush her teeth.

Claimant helps around the house by cleaning her room, dusting, laundry and taking care of the dog. She is able to prepare simple foods. She does not use public transportation. She can make purchases but has difficulty counting change. She orders simple meals (such as burgers) in restaurants. She can perform simple first-aid, including using band-aids. She can take medication with supervision.

Claimant lacks safety skills in unfamiliar settings and has little safety awareness.

4. Claimant speaks clearly and in a soft voice. She initiates and maintains interactions in familiar and unfamiliar settings.

5. Claimant attends an adult developmental center (ADC) program at Barstow Employment Specialized Training (BEST) Opportunities program in Barstow. This program concentrates on improving vocational and social skills. She interacts with the staff and occasionally with people without disabilities. She works less than 10 hours a week and is paid minimum wage. She participates in community outings for recreation, errands, entertainment or church at least once a week but not every day.

6. In order to support Claimant living in her family home, she receives Medi-Cal Services, Supplemental Security Income (Her mother is her payee.), Veterans' Administration benefits (Her father is her payee.).

7. Since May 2008, the Service Agency has funded 22 hours/month of Supported Living Services (SLS). According to the testimony, SLS are designed to provide training in independent living skills and are typically funded by the Service Agency if the consumer lives independently or plans to move into her own home. The Service Agency agreed to fund SLS for Claimant because there is concern that she might be required to live independently due to her parents' age and her father's medical condition. The vendor is Independent Living Systems, Inc.

8. On July 12, 2010, at the last Individual Program Plan (IPP) meeting<sup>1</sup>, the Service Agency agreed to continue funding 22 hours of SLS to assist in achieving her goal of living as independently as possible and being prepared for when her parents can no longer assist her. In the IPP, the goals are described as “include assistance with medical and dental appointments, money management, shopping, cooking, maintenance in the home, laundry, correspondence and safety.” Further, the parties agreed: “IRC will fund this service in accordance with the mandates of the law and IRC Board approved policies.”

9. On September 22, 2010, Blaine Anderson, Claimant’s Consumer Services Coordinator (CSC), met with Claimant at BEST and informed her that her SLS would be reduced or terminated. She made no objection to the reduction or discontinuance of the service. Given the evidence in the record and Claimant’s limited cognitive ability, it is determined that Claimant did not understand.

10. In the Notice of Action, dated September 27, 2010, the reasons stated for terminating Claimant’s SLS are:

“... based on the mandate of the Welfare and Institutions Code section 4512 (e) ‘Natural supports’ means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships, friendships reflecting the diversity of the neighborhood and the community ....’

IRC POS policy states: ‘Development of circles of support should be a component of individual living skills training program.’ Also, ‘Inland Regional Center is committed to maximizing the independence of adults with developmental disabilities and also providing reasonable assurance that the service needed to support that independence will achieve the intended results and conform to the law’s cost effectiveness criteria. Only by reconciling and meeting all three of these imperatives-Empowerment, Protection, and Fiscal responsibility-can there be progress towards the legislature’s goal of promoting ‘more independent, productive, and normal lives’ for people with developmental disabilities.

Your current authorizations include attending the BEST Opportunities program, Transportation to and from that program, and the supported living services through Independent Living Systems, Inc. You could discuss with your coach at BEST how to practice shopping for food, how to use money more effectively, and how to keep your room clean in your home. You could also work more closely with your mother and father to learn more of these skills from them.

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<sup>1</sup> Present at the meeting were Blaine Andersen, Claimant’s Consumer Services Coordinator (CSC), Kathryn Demarest, BEST Case Manager and Claimant.

.... you will not be moving out to live independently from your parents. As such, the decision of the Inland Regional Center is that continued supported living services will not be funded.”

Thereafter, the letter explains Claimant’s appeal rights.

11. The Service Agency conducted an informal meeting, by telephone, on November 8, 2010. Present were Vince Toms, a Service Agency Program Manager, and Margie Thompson, Supervisor, Supported Living Systems, Inc., also Claimant’s representative in this case. Thereafter, Toms issued a letter, dated November 16, 2010, affirming the Service Agency’s denial.

According to the letter, Claimant lives with her parents and has been paying rent; because of her parents’ health issues, they are not able to assist with her activities of daily living; she requires assistance with paying bills, handling correspondence with other people and agencies; a referral has been made to In-Home Supportive Services (IHSS) but when they contacted Claimant, she was confused and told them that she did not require their assistance; there has been no follow-up; Toms spoke to Service Agency’s administrator, discussed the case, and the decision was made to terminate the service because Claimant was not ready to move out of the parental home.

Regarding the reasons for denial, the Service Agency stated, in pertinent part:

“IRC does not fund transition type services, like ILS, unless the client is pending a move out of the family home and into a dwelling of their own. It appears that Becky is not at the point of moving from the family home to an independent living situation. Typically IRC will fund ILS for clients up to three months before they move out on their own. The ILS stays in place while the client is living on his/her own and assists them in everything from shopping to money management skills.

The decision to not continue funding ILS is based on the fact that consumers living in the parental home are not eligible for the service [California Code of Regulations, Section 58613 (a) (2) (B)]. ILS, as aforementioned, is provided to assist and train individuals to move into and remain in their own residence. Training in all ILS related areas is considered a parental responsibility, especially if the client is to remain in the family home.

To assist the parents and Becky in staying in the parental home, IRC recommends the use of IHSS. The IHSS hours are provided to help meet Becky’s needs to include her care needs. The IHSS funding can be used to pay a care provider of her choice to take care of her needs. The person providing the care can be compensated and also use the time to train Becky on her continued path towards maximum independence. Once she is ready to move out of the parental home and into a dwelling of her own, ILS can be reinstated.”

In this letter, the Service Agency provides the legal bases for the foregoing decision.

12. Welfare and Institutions Code, section 4648 states, in pertinent part:

“In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities, including, but not limited to, all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports which would allow minors with developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow all consumers to interact with persons without disabilities in positive, meaningful ways.

(2) In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in natural community, home, work, and recreational settings. Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family...”

13. Welfare and Institutions Code, section 4646 states, in pertinent part:

“.... (b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan....

(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting....”

14. According to Claimant’s IPP, in July 2010, the planning team determined that in order for Claimant to live as independently as possible that she should receive SLS. Two months later, Claimant’s CSC notified her that the service would be terminated, without benefit of a planning team meeting. Claimant’s CSC agreed that a meeting was appropriate but he was particularly pressed for time.

15. Claimant has mild mental retardation, which means that she has impaired cognitive ability. Her mother is a regional center consumer. She testified as a witness in this case. Based on her testimony it appears that she too has limited cognitive ability. In the past, her father has had serious medical conditions. Insufficient evidence was offered to establish that his medical condition has changed. Claimant’s representative is employed by the vendor that provides Claimant’s SLS, potentially a conflict of interest. It is noted that the Service Agency was confused about whether Claimant was being provided ILS or SLS and recommended that she be referred to IHSS.

16. As mandated by the statute, a planning team meeting is necessary to determine whether it is appropriate to reduce or terminate Claimant’s SLS; the need for such a meeting is particularly evident in this case. As in the past, an unbiased representative (such as the BEST case manager) should be present to assist Claimant in making determinations about her needs and supports. If the team determines that a different service is appropriate, it is likely that she will need assistance from her CSC with pursuing that service.

## LEGAL CONCLUSIONS

1. The Service Agency properly served a Notice of Action (including appeal rights); however, the Service Agency failed to convene a planning team meeting before determining the appropriate action regarding Claimant’s services and before it served the Notice of Action.

2. Pursuant to Welfare and Institutions Code section 4648, prior to taking action to taking action to reduce or eliminate Claimant’s supported living services, a planning team meeting must be conducted, and she must be afforded all rights allowed under the Lanterman Act.

## ORDER

The Inland Regional Center shall continue funding 22 hours per month of supported living services for Rebecca W.

DATED: April 21, 2011

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VALLERA J. JOHNSON  
Administrative Law Judge  
Office of Administrative Hearings

## NOTICE

**This is the final administrative decision; both parties are bound by this decision.  
Either party may appeal this decision to a court of competent jurisdiction within 90 days.**